



COMMONWEALTH of VIRGINIA
Office of the Attorney General
Richmond 23219

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Attorney General

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MEMORANDUM

TO: **MICHAEL LUPIEN**
Provider Reimbursement
Virginia Department of Medical Assistance Services

FROM: **USHA KODURU**
Assistant Attorney General

DATE: **November 6, 2007**

SUBJECT: **Final Regulation to Change Reimbursement for School Divisions to a Cost Settlement process**

I have reviewed the attached final regulation that will create a new state regulation and will modify the State Plan for Medical Assistance Services relating to changes in the reimbursement method for school divisions from a state wide fee for service to a cost settlement process. You have asked the Office of the Attorney General to review and determine if the Department of Medical Assistance Services ("DMAS") has the legal authority to promulgate the final regulation and if the final regulation comports with state and federal law.

Based on that review, it is my view that the Director, acting on behalf of the Board, pursuant to Va. Code § 32.1-324, has the authority to promulgate this change to the State plan and has not exceeded that authority. This change is pursuant to Item 302 (NN) of the 2006 Acts of Assembly, subject to compliance with the provisions of Article 2 of the Administrative Process Act, and DMAS has not exceeded that authority. This final regulation incorporates a mandate from the Centers for Medicare and Medicaid Services, which is the federal funding agency for the Medicaid program.

If you have any questions, please contact me at 786-4905.

Michael Lupien
November 6, 2007
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Attachment

cc: Kim F. Piner, Esquire